IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.58 of 1990
Date of decision:24.10.2006

M/s. Haryana Paper Converting Industries, Rohtak

....Petitioner

versus

The Commissioner of Income tax, Rohtak

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: None for the assessee.
Mr. Yogesh Putney, Advocate, for the revenue.

JUDGMENT:

Following question has been referred for the opinion of this Court by the Income Tax Appellate Tribunal 'E' Bench, New Delhi (for short, 'the Tribunal') arising out of its order in ITA No.1003/1985, for the assessment year 1978-79:-

> "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that initiation of proceedings under section 147(a) of the present case was justified in law?"

For the accounting period ending 1978, assessment was made on total income of Rs.87,180/- which was reduced by the Appellate Assistant Commissioner to Rs.75,990/-. On receiving information that the assessee had obtained overdraft facilities from the bank against a fixed deposit receipt, re-assessment proceedings were initiated. The assessee filed return in response to notice under section 148 of the Income Tax Act, 1961 (for short, 'the Act'). The Assessing Officer rejected the assessee's version that the FDRs belonged to the persons mentioned in the FDRs and made addition to the income. Appeal of the assessee was accepted by the CIT(A). It was held that the Assessing Officer could initiate re-assessment proceedings if there was failure on the part of the assessee which was not the situation in the present case.

On further appeal, the Tribunal upheld the initiation of re-assessment proceedings.

Reference was called out for hearing. None has appeared for the assessee. In absence thereof, we are of the view that it may not be appropriate to go into the merits of the case.

Accordingly, the reference is returned unanswered.

(Adarsh Kumar Goel)
Judge

October 24, 2006
'gs'

(Rajesh Bindal)
Judge